

Chapter 1433. Hillside Overlay Districts.

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§ 1433-01. Specific Purposes.

The purpose of the Hillside Overlay District regulations is to establish standards to assist in the development of land and structures in existing hillside areas and procedures for the review of proposed development, so that development will be compatible with the natural environment and respect the quality of the urban environment in those locations where the hillsides are of significant public value. These regulations are intended to prevent damage to the City's hillsides by minimizing:

- (a) Blighting influences caused by the application of conventional land use regulations to lots in areas having sensitive environmental qualities.
- (b) Unstable land.
- (c) Significant damage to or destruction of hillsides or valleys.
- (d) Significant damage to the economic value and efficiency of operation of existing properties or new developments due to the interdependence of their visual and functional relationships.
- (e) Soil erosion and stream siltation.
- (f) Destruction of mature trees and existing vegetation.

In hillside areas, the existence of a 20 percent slope, in combination with the KOPE geologic formation, is evidence of a condition of natural critical stability and development under conventional regulations may precipitate landslides or excessive soil erosion. The additional regulations embodied in the Hillside District are needed to respect the contours and views of the hills for all equally, not for the sole benefit of a few individuals.

§ 1433-03. Definitions.

For purposes of this chapter, words and phrases defined below have the meanings ascribed to them; additional definitions are in Chapter 1401, Definitions.

§ 1433-03-B. Brow.

“Brow” means a brow of the hill that is the separator between the hilltop that is level or gently sloping and the hillside that is steeply sloped.

§ 1433-03-C. Cincinnati Hillside Development Guidelines.

“Cincinnati Hillside Development Guidelines” means the guidelines prepared in 1975 by the Cincinnati Institute for the City Planning Commission which are adopted as an appendix to this chapter. These guidelines are for the evaluation of proposed projects within adopted Hillside Overlay Districts.

§ 1433-03-C2. Colluvium.

“Colluvium” means soil material, rock fragments or both, moved by creep, slide or local wash deposited on or at the base of hillside slopes.

§ 1433-03-H. Hillside Study.

“Hillside Study” means the report prepared by the City Planning Commission in 1969 for general public distribution; this study identified the 23 critical hillsides within the City of Cincinnati, their natural characteristics and general suitability for development.

§ 1433-03-I. 1980 Inventory of Hamilton County Soils.

“1980 Inventory of Hamilton County Soils” means the report prepared by the Ohio Department of Natural Resources Division of Lands and Soil in conjunction with the Soil Conservation Service of the U.S. Department of Agriculture. This study may be used to evaluate the impact and feasibility of development.

§ 1433-03-K. KOPE Formation.

“KOPE formation” means the shale bedrock that is overlaid by colluvium soils. (See § 1433-03-C2). The colluvium forms a deposit that is thin on the steeper, higher slopes and gradually becomes thicker near the bottom of the hill. Landslides may occur in the colluvium, because the colluvium is derived from the weathering of bedrock.

§ 1433-03-L. Landslide Indicia.

“Landslide Indicia” means geographical contour information included in the Cincinnati Area Geographic Information System (CAGIS) that illustrates both the degree of slope (See § 1433-03-S) as well as irregularities, the presence of which indicate existing or potential landslides. Primary examples of irregularities include:

- (a) A significant variation in the degree of slope within a given hillside, and
- (b) Very closely spaced contours, particularly near the bottom of a slope.

Either of these characteristics may indicate existing or dormant landslides. These characteristics, when combined with the soil type provide a basis for identifying hillsides where site-specific geotechnical investigations are needed.

§ 1433-03-L1. Landslide Susceptible Soils.

“Landslide Susceptible Soils” means a soil of any of the following types when found on slopes of 20 percent or steeper. (See 1980 Inventory of Hamilton County Soils and Landslide Susceptibility Study and Map).

- (a) Bonnell Silt Loam
- (b) Casco Loam
- (c) Eden Silty Clay Loam
- (d) Hennepin Silt Loam
- (e) Markland Silty Clay Loam
- (f) Miamian-Hennepin Silt Loam
- (g) Pate Silty Clay Loam
- (h) Switzerland Silt Loam

§ 1433-03-L2. Landslide Susceptibility Study and Map.

“Landslide Susceptibility Study and Map” means the study and map prepared in 1980 by the consulting firm of Sowers and Dalrymple for the Department of Transportation and Engineering. This map, which divides the City of Cincinnati into four categories of landslide susceptibility, is also used to determine the need for further geotechnical investigation. Low, moderate, moderately high and high landslide susceptibility categories are used in the determination of HS overlay district boundaries.

§ 1433-03-S. Slope.

Slope means the inclination of the land surface from the horizontal. Percentage of slope is the vertical distance divided by horizontal distance, then multiplied by 100. Thus, a slope of 20 percent is a rise of 20 feet in 100 feet of horizontal distance.

$$\text{Slope(s)} = \frac{\text{difference between contour elevation (rise)}}{\text{length between contours (run)}} \times 100$$

§ 1433-05. HS Zoning Map Designator.

A Hillside Overlay District is shown on the zoning map by a HS designator applied to the base district designation. This designation is based upon a moderately high or high landslide susceptibility pursuant to the landslide susceptibility study and map: Any real property either whole or in part within said moderately high or high susceptibility areas should be classified as being within a HS District.

§ 1433-07. Applicability.

Except as otherwise provided in this chapter, all regulations of the underlying zone districts and other applicable overlay districts apply to and control property in an HS District; provided, however, that in the case of conflict between the provisions of an underlying zoning district and the HS District, the provisions of the HS District govern.

§ 1433-09. Criteria for Establishment of an HS District.

Council may establish HS Districts to include at least 50 percent of its area within one or more of the 23 hillside areas listed in the Hillside Study. The area with a HS overlay district must contain four of the following seven characteristics:

- (a) Slopes of 20 percent or greater;
- (b) Existence of KOPE geologic formations;
- (c) A minimum of one acre of contiguous land area;
- (d) Prominent hillsides that are readily visible from a public thoroughfare located in a valley below a hillside;

- (e) Hillsides that provide views of a major stream or valley;
- (f) Hillsides functioning as community separators or community boundaries as identified in a community plan accepted and approved by the City Planning Commission; and
- (g) Hillsides that support a substantial natural wooded cover.

§ 1433-11. Exempt Permits.

The following are exempt from the provisions of this chapter:

- (a) Permits for roof, gutter and chimney repair or replacement, plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment and all other mechanical and electrical equipment.
- (b) Permits necessary for compliance with retroactive provisions of the Cincinnati Building Code.
- (c) Permits necessary for compliance with a lawful order of the Director of Buildings and Inspections, including deficiencies listed in Certificates of Inspection.
- (d) Permits necessary to ensure the immediate public health or safety.
- (e) Building permits for interior alterations and repairs, demolition or wrecking, driveways, fences and signs.
- (f) Permits for construction of public utilities in the public right-of-way.

§ 1433-13. Applications Subject to Review.

The Director of Buildings and Inspections has the duty to review the following permits in an established HS District for compliance with the base requirements of this district.

- (a) **New Buildings.** Permits for construction of new primary buildings and accessory structures larger than 600 square feet in area or 15 feet in height.
- (b) **Alterations to Residential Buildings.** Permits for alterations, additions and repairs to the exterior of residential buildings that result in an increase of dwelling units or an increase in interior floor area of more than 10 percent or exceeds the maximum building envelope.
- (c) **Alterations to Non-Residential Buildings.** Permits for alterations, additions and repairs to the exterior of all non-residential buildings in which the estimated improvement costs exceed \$5,000;

- (d) **Excavation and Fill Permits.** Permits for excavation and fill.

§ 1433-15. Application Requirements.

In addition to the requirements for applications established in Chapter 1441, Application Procedures, Fees, Permits and Certificates, applications for development in the HS District that are not exempt under § 1433-11 must include:

- (a) A development plan, accompanied by a property survey, showing existing vegetation and proposed development, and where applicable, streets, drives, parking areas, walkways, heights of structure(s), location of structures, elevation and setback of proposed buildings, drainage, existing contours and proposed grading and new landscaping plans, proposed uses and square footage of uses and recreational facilities;
- (b) A preliminary geotechnical evaluation;
- (c) A determination of the maximum building envelope;
- (d) Average slope/grade of the property; and
- (e) Graphic illustrations demonstrating that the proposed improvement or new structure has not exceeded the maximum building envelope.

§ 1433-17. Determination of Maximum Building Envelope.

Each applicant must establish a maximum building volume area to determine the size of a structure that can be built on the site by calculating the following in accordance with the rules of measurement set forth in Chapter 1400:

- (a) **HS Rear Yard Setback.** Average rear yard setback of abutting structures on both sides; or the required rear yard setback of the underlying district if no adjacent structure(s) exists.
- (b) **HS Side Yard Setback.** Average side yard setback of abutting structures on both sides; or the required least width side yard setback of the underlying district if no adjacent structure(s) exists.
- (c) **HS Front Yard Setback.** Average front yard setback of abutting structures on both sides; or the required front yard setback of the underlying district if no adjacent structure(s) exists.
- (d) **HS Height of Front.** Maximum height of the front of the structure; either the maximum height of the underlying zoning district or the average height of the front of adjacent structures as measured from the finished grade of the front of each adjacent structure, whichever is greater.

- (e) **HS Height of Rear.** Maximum height of the rear of the structure; either the maximum height of the underlying zoning district or the average height of the rear of adjacent structures as measured from the average grade, whichever is greater.

The maximum building envelope is the solid defined by vertical planes constructed at the HS rear, side and front yard setbacks and the plane between the HS height of front and the HS height of rear. A building may not extend beyond any dimension of the maximum building envelope.

§ 1433-19. Base Development Requirements.

An application subject to review must comply with the following requirements:

- (a) **Maximum Building Envelope.** A new building or a building alteration, addition or repair that increases interior floor area by more than 10 percent must be contained within the maximum building envelope.
- (b) **Height Versus Width.** Buildings proposed on top of the hillside must be taller than wider to accentuate the vertical dimension.
- (c) **Stepping.** Buildings proposed below or above the brow of the hill must be staggered or stepped in depth and width to match topography and slope.
- (d) **Maximum Retaining Wall Height.** Retaining walls may not exceed eight feet in height.
- (e) **Rooftop Utilities.** Rooftop utilities and mechanical equipment should be avoided. If rooftop utilities and mechanical equipment are necessary, screening and sound control must be provided to integrate them into the rooftop.
- (f) **Landscaping of Pervious Surfaces.** All pervious surfaces remaining after completion of construction must be landscaped in trees, shrubs, grass or other ground covers to promote hillside stability and reduce excessive water runoff.
- (g) Excavation and fills should not exceed eight feet in cumulative height.
- (h) The preliminary geotechnical evaluation should address relative hillside stability.

§ 1433-21. Approval.

- (a) If the Director of Buildings and Inspections determines the application conforms to the requirements of §1433-19 and the requirements of this chapter and all other requirements of the Cincinnati Zoning Code, the director has the duty to issue a building permit for the proposed work.

- (b) If the Director of Buildings and Inspections determines the application does not conform to the requirements of § 1433-19, a hearing and decision by the Zoning Hearing Examiner is required, pursuant to Chapter 1443, Zoning Hearing Examiner Procedures, prior to the issuance of a building permit.
- (c) The Zoning Hearing Examiner may approve, approve with conditions or disapprove an application for development in the HS District based on written findings in accordance with § 1433-23, Hillside Development Standards.

§ 1433-23. Hillside Development Standards.

In addition to the Base Development Requirements of § 1433-19, the Zoning Hearing Examiner must consider the following standards to ensure harmonious relationships with adjacent buildings and the hillside environment:

- (a) Avoid cuts in the hillside if they would leave cliff-like vertical slopes and excessively high retaining walls.
- (b) Design buildings to fit into the hillside rather than altering the hillside to fit the buildings.
- (c) Hillside development should be designed to minimize excavation required for foundations, parking and access drives.
- (d) Cluster new development to retain surrounding tree cover and minimize alterations to the existing topography.
- (e) Maintain a clear sense of the hillside brow by locating buildings back from the brow of the hill.
- (f) Site buildings so as to respect views from public viewing places within the HS District identified in a community plan or other documentation approved by the City Planning Commission.
- (g) Where applicable, consider the guidelines contained in the "Cincinnati Hillside Development Guidelines" report to evaluate development applications.

§ 1433-25. Appeal.

Any party with standing may, pursuant to Chapter 1449, Zoning Board of Appeals, appeal to the Zoning Board of Appeals within 30 days after the decision of the Zoning Hearing Examiner.